

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13944 of 2014

=====

Ghanshyam Kamti, Son of Late Gulay Kanti resident of Mohalla- Bishnupuri,
P.O.- Anishabad, P.S.- Gardanibag, District- Patna. Petitioner.

Versus

1. The State of Bihar.
2. The Secretary Bihar Rajya Bal Sharimik Ayog, Patna.
3. The Secretary General Administration Department, Old Secretariat, Patna.
4. The Secretary Health Department, New Secretariat, Patna.

.... Respondents.

=====

Appearance :

For the Petitioner : Mr. Gopal Govind Mishra, Adv.

For the Respondents : Mr. Kumar Vikram, AC to GA-4.

=====

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

Date: 16-09-2016

The question in the present writ petition is whether merely on the ground of pendency of criminal case any amount of pension can be withheld or not.

The facts of this case are not in dispute. The petitioner was a government employee. There were some allegations of misappropriation. A departmental proceeding was initiated against him. The Inquiry Officer concluded by holding that there was no evidence to hold the petitioner guilty. In any manner, the department not being satisfied, ordered for re-enquiry, wherein again the same

- 2 -

finding was returned. In the meantime, the C.B.I. took up the matter and two prosecutions were instituted against the petitioner in one of them the petitioner has already been acquitted. When it came to payment of retiral dues, the same were not being paid, this writ petition was filed.

During pendency of the writ petition, authorities have taken a decision to pay 90% of the retiral dues. Learned counsel for the petitioner submits that this is impermissible. Retiral dues can only be withheld on account of conviction or as a consequence of order in any departmental proceeding. In the departmental proceeding, as noted above, the Inquiry Officer dropped the matter, as there was no material to hold the petitioner guilty. Learned counsel for the petitioner has relied on judgment of the Apex Court in the case of **State of Jharkhand and others Vs. Jitendra Kumar Srivastava** since reported in **2013 (3) PLJR 458 (SC)**, which arose from State of Jharkhand and was dealing with the Bihar Pension Rules, wherein in clear terms the Court has held that the Bihar Pension Rules do not authorize withholding of pensionary benefits, except upon conviction in a criminal case or upon an order of a disciplinary proceedings. In the present case, there being none.

In that view of the matter, this Court has no option but to direct the respondents to pay the entire pensionary benefits to

the petitioner forthwith including the arrears thereof. The responsibility for compliance of the order of this Court would be on the Secretary, Department of Health, Government of Bihar, Patna. The payments of arrears, which have been withheld, would also be cleared within the same period.

With the aforesaid direction, this writ petition stands disposed of.

(Navaniti Prasad Singh, J.)

Trivedi/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	17.09.2016
Transmission Date	